

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
DECEMBER 6, 2016**

CALL TO ORDER
5:59 pm

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the South Campus Building, Suite 200, 40 11th Street West, Kalispell, Montana. Board members present were Cal Dyck, Roger Noble, Mark Hash and Gina Klempel. Ole Netteberg had an excused absence. Kari Nielsen and Mark Mussman represented the Flathead County Planning & Zoning Office.

There were 6 people in the audience.

**APPROVAL OF
MINUTES**
5:59 pm

Klempel motioned and Dyck seconded to approve the October 4, 2016 minutes as provided in the meeting packet.

The motion passed by quorum.

**PUBLIC
COMMENT**
***(Public matters
that are within
the jurisdiction
of the Board 2-
3-103 M.C.A)***
5:59 pm

None

**CONSTANCE
COHEN BY
NORTH VALLEY
REFUSE
(FCU-16-16)
6:00 pm**

A request from Kalvig Law Firm, on behalf of Montana Waste Systems, Inc. dba North Valley Refuse & dba North Valley Portables for a conditional use permit for the expansion of an existing non-conforming use on property owned by Constance G. Cohen. The subject property is located at 5445 Highway 93 South, within the Blanchard Lake Zoning District and is zoned AG-20 (*Agricultural*). The site is currently developed as a waste management business and can legally be described as Assessors Tract 3F in Section 13, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

**STAFF REPORT
(FCU-16-16)
6:00 pm**

Nielsen reviewed Staff Report FCU-16-16 for the Board.

Nielsen stated Finding 7 would need to be changed and possibly a Condition added regarding screening, she also noted that Finding 17 needed to be changed as the hours of operation were 5:00 am to 5:00 pm not 8:00 am to 5:00 pm.

**BOARD
QUESTIONS
6:04 pm**

None

**APPLICANT
PRESENTATION
6:05 pm**

Ken Kalvig-100 Cooperative Way, Ste 202, Kalispell-stated he was representing the applicant. He stated this property had been used for a waste management business for the better part of 4 decades and for many years prior to zoning. Portable toilets have been on the property for the past 15 years. The use of this property for portable toilet rental business blends well with the other grandfathered uses.

Kalvig spoke about Findings 4 and 5 regarding parking and traffic circulation and stated that the applicant was willing to meet those conditions.

He stated Condition 9 regarding hours of operation had already been addressed by Nielsen and that the correct hours of operation should be 5:00 am to 5:00 pm although the applicant had an agreement with the neighbor not to dump any containers in the yard prior to 8:00 am.

Kalvig talked about the complaint from the neighbor's regarding screening stating the applicant was willing to screen the southern portion of the property where it would provide the most benefit as a visual barrier.

**BOARD
QUESTIONS
6:13 pm**

None

**PUBLIC
COMMENT
6:13 pm**

None

**STAFF
REBUTTAL
6:14 pm**

Nielsen stated she had rewritten the two (2) findings and a rewrite of condition 9 and a potential condition 10. Findings:

7. ~~The fencing/screening and landscaping on the subject property appears to be adequate because there are no standards for screening and the mutual neighbor agreement with the neighbors to the south, the Silliker Revocable Family Trust, addresses previous issues regarding screening.~~ *may not be adequate on the southern portion of the property but can be mediated by a condition requiring the applicant to provide screening to the south.*

17. ~~The proposed expanded use will not have a negative impact on the immediate neighborhood based on inappropriate hours of operation because they will not dump any containers in the yard before 8:00 am and hours of operation will remain the same, operating between 5:00 am only be active in the equipment storage area between the hours of 8:00 am and 5:00 pm, Monday through Friday.~~

Conditions:

9. Hours of operation, including times of delivery shall not exceed normal business hours and shall occur between 8:00-5:00 am and 5:00 pm *Monday through Friday, with no dumping in the yard before 8:00 am.*

Nielsen stated a condition 10 would need to be added regarding screening after the Board discussion.

**APPLICANT
REBUTTAL
6:18 pm**

None

**BOARD
DISCUSSION
6:18 pm**

The Board discussed the screening options at length.

Hash asked about additional lighting.

Applicant stated no additional lighting was planned.

The Board agreed on the following additional condition:

11. The applicants shall screen the portable toilets appropriately, decided by both the Silliker Revocable Family Trust and North Valley Refuse. If no agreement can be made, a ten foot fence shall be place along the southern boundary of the toilet storage area as identified on the site plan to a maximum of 300 feet.

**MAIN MOTION
TO ADOPT F.O.F.
AS AMENDED
(FCU-16-16)
6:45 pm**

Noble made a motion seconded by Klempel to adopt the Findings-of-Fact as amended.

**BOARD
DISCUSSION
6:45 pm**

None

**ROLL CALL TO
ADOPT F.O.F. AS
AMENDED
6:46 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO APPROVE AS
AMENDED
(FCU-16-16)
6:46 pm**

Noble made a motion seconded by Dyck to accept Staff Report FCU-16-16 as Findings-of-Fact and Approve the Conditional Use Permit as amended.

**BOARD
DISCUSSION
6:46 pm**

None

**ROLL CALL TO
APPROVE AS
AMENDED
6:46 pm**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS
6:47 pm**

**NEW BUSINESS
6:47 pm**

None

**ADJOURNMENT
6:47 pm**

The meeting was adjourned at approximately 6:40 pm on a motion by Klempel. The next meeting will be held at 6:00 pm on January 3, 2017.



Mark Hash, Chairman



Danene Thornton, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 4 / 4 / 16